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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,144	01/20/2004	Gilbert Garza	112G	6996
7590	02/18/2005		EXAMINER	
Frank A. Spear 10264 Champions Court Ijamsville, MD 21754			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,144

Applicant(s)

GARZA ET AL.

Examiner

Carlos Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 7, 18, 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the longer hollow bolt and the short bolt connected together to for the pivot means, as claimed in claim 5 (to clearly show those members) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to because:
 - Figure 3, change "20" to -21-.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
 - Element 53 is not described in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing

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sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. **Claims 3 and 10 are objected** to because of the following informalities:

- Claim 3, change "said pivot piece, bracket and bar" to -said pivot means, said bracket and said bar-.
 - Claim 10 Line 2, change "the door or door support" to -a door or a door support.
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. **Claims 7,8,18,19,23 and 24 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "that the pivot piece is not as wide as the handle and hence forms shoulders on the handle". Claim 18 and 23 recites, "that the edge of the handle from which the pivot piece projects comprises two shoulders".

However, as seen in the drawings, the handle 12 does not have shoulders; the handle has a flat end.

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The drawings shows that when the handle and the pivot piece are connected to each other and because the pivot piece is not as wide as the handle, the engagement creates two edges that will serve as a stop for the bar as the pivot piece is introduced into the bar.

Therefore, in order to continue with the examination, the limitation will be considered as "the engagement of the pivot piece and the handle will create stop surfaces". Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-4,10-13 and 17 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,102,451 to Merryman.

Regarding claims 1 and 17, an assist device (10) for a door handle and latch comprises an elongated hollow bar (14) having one end (at the right side in Figure 1) constructed and arranged to pivot about a pivot means (17) and the other end (at the left side in Figure 1) constructed and arranged to receive a pivot piece (28) therein.

As to claim 2, Merryman discloses that the pivot means (17) secures the bar to a u-shaped bracket (11).

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As to claim 3, Merryman illustrates that the pivot piece, the bracket and the elongated bar are aligned along a longitudinal axis (Figure 1).

As to claims 4 and 11, Merryman illustrates that the pivot means passes through the top part of the bar and through the top part of the u-shaped bracket (Figure 4).

As to claim 10, Merryman discloses that the bracket (11) is sturdily secured to a door or a door support with at least two screws (32).

As to claim 12, Merryman illustrates that the bar has a substantially constant cross-sectional area throughout its entire length.

As to claim 13, Merryman illustrates that the assist device parts appear to be very tightly and sturdily arranged; yet the bar pivots as desired.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 5 and 20-22 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,102,451 to Merryman as applied to claims 1 and 2 above, and further in view of US Pat No 4,629,228 to Marko et al (Marko).

As to claims 5 and 20, Merryman fails to disclose that the pivot means consists of a long inside threaded hollow bolt, which passes through the bracket and the bar, and a short outside threaded bolt, which is screwed into the long bolt. Merryman discloses the use of a pin or clip (17).

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Marko teaches that it is well known in the art to have pivot means that consist of a long inside threaded hollow bolt (38) and a short outside threaded bolt (46), which is screwed into the long bolt.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a pivot that consist of a threadedly engaged long and short bolts, as taught by Marko, into a device as described by Merryman, in order to have a stronger materially embodiment and to have a embodiment that has no sharp projecting parts that could harm a person.

As to claim 21, Merryman discloses that the pivot means (17) secures the bar to a u-shaped bracket (11).

As to claim 22, Merryman illustrates that the pivot piece, the bracket and the elongated bar are aligned along a longitudinal axis (Figure 1).

11. **Claims 6,9,14 and 15 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,102,451 to Merryman as applied to claim 1 above, and further in view of US Pat No 2,871,050 to Dickinson.

As to claims 6 and 9, Merryman fails to disclose that the pivot piece is a separate member that is secured to the handle. Merryman discloses that the pivot piece (28) is part of the handle.

Dickinson teaches that it is well known in the art to have an assist device that have a pivot piece (60) as a separate member secured to a handle (20) and to an elongated bar (32). The pivot piece (60) is sturdily secured the handle (20) with two nuts and two bolts.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have separate members connected to each other instead of a one piece member, as taught by Dickinson, because the fact that the pivot piece is a separate member from the handle is considered as a design consideration within the skill of the art.

As to claims 14 and 15, Merryman fails to disclose that the bar has a square cross sectional shape. Merryman discloses that the main body of the bar has a circular cross sectional shape and at the ends it has a substantially oval cross sectional shape with two flat sides so to accommodate the pivot piece inside the bar.

Dickinson teaches that it is known in the art to have a bar with a square cross sectional shape.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a bar with a square cross sectional shape, as taught by Dickinson, into a device as described by Merryman, so as to help in the engagement of the bar and the pivot piece.

12. **Claim 16 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,102,451 to Merryman as applied to claims 1 and 2 above, and further in view of US Pat No 6,601,881 to Mandell et al (Mandell).

Merryman fails to disclose that the material used to make the bar, the pivot piece and the bracket is aluminum. Merryman discloses that the pieces are made from a metal material.

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Mandell teaches that it is well known in the art to use aluminum to create a bar, a pivot piece and a bracket (Col. 7 Lines 49-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use aluminum, as taught by Mandell, into a device as described by Merryman, in order to made the pivot piece, the bar and the bracket.

Allowable Subject Matter

13. **Claim 23 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claim 24 would also be allowed because the claim depends from claim 23.
14. **Claims 7 and 18 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Claims 8 and 19 would also be allowed because the claims depend from claims 7 and 18 respectively.

Reasons For Allowance

15. The following is an examiner's statement of reasons for allowance:

Claim 23 is allowable over the prior art of record and claims 7 and 18 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the engagement of the pivot piece and the handle will create stop surfaces (as examined, see 112 rejection above).

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Merryman, as modified by Dickinson, fails to disclose that the engagement of the pivot piece and the handle will create stop surfaces. As seen in Figure 1, Dickinson teaches a pivot piece 60 and a handle 20. However, the engagement of the two members does not create stop surfaces so as to stop the bar as the pivot piece is introduced into the bar.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
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C.L.

Carlos Lugo

AU 3676

Feb. 16, 2005